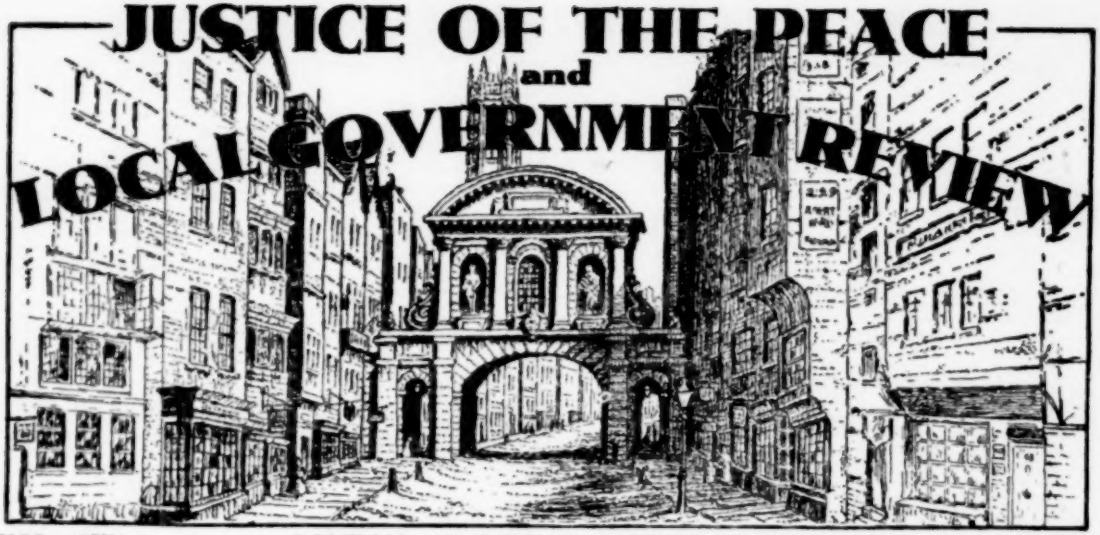

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COUNTY OF MIDDLESEX

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WHOLE-TIME Assistant to Clerk to Justices, experienced in keeping Magisterial accounts, issuing of process, and general duties of Clerk to the Court. Remuneration on scale £420 × £25—£520 × £30—£550. Qualifications and experience will determine commencing salary. Pensionable, subject to medical fitness. Applications, with copies of not more than three recent testimonials, must reach the undersigned by September 14, 1951 (quoting J. 670 J.P.). Canvassing disqualifies.

C. W. RADCLIFFE,
Clerk to the Standing Joint Committee.

Guildhall,
Westminster, S.W.1.

COUNTY BOROUGH OF WIGAN

Junior Assistant Solicitor

APPLICATIONS are invited for the appointment of Junior Assistant Solicitor at a salary in accordance with the National Joint Council Scale as follows: (a) After admission and on first appointment within A.P.T. Division, Grade Va (£600—£660 per annum), (b) After two years' legal experience from date of admission within A.P.T. Division Grade VII (£685—£760 per annum).

Local Government experience is desirable but not essential.

Applications, with copies of two recent testimonials, must be received by me not later than August 25, 1951.

ALLAN ROYLE,
Town Clerk.

Municipal Buildings,
Library Street,
Wigan.
August 7, 1951.

CITY OF BATH

Deputy Town Clerk

APPLICATIONS are invited from gentlemen for the appointment of Deputy Town Clerk at a salary of £1,100 per annum, rising, subject to satisfactory service, by annual increments of £50 to £1,250 per annum.

Applicants must be admitted Solicitors and must have a good knowledge of Conveyancing and experience in advocacy. Local Government experience is essential.

Further particulars, with particulars of appointment and form of application, may be obtained from the undersigned to whom applications must be delivered not later than September 8, 1951.

Canvassing, either directly or indirectly, will be a disqualification.

JARED E. DIXON,
Town Clerk.

Guildhall, Bath.

COUNTY BOROUGH OF WALSALL

Conveyancing Assistant

APPLICATIONS are invited for the above appointment from persons either admitted or unadmitted. Salary in accordance with Grades V–VII of the A.P.T. Division of the National Charter (£570–£760). The commencing and ultimate salaries will be fixed according to the age, qualifications and experience of the successful candidate.

Municipal experience is not essential.

Applicants must be able to deal with Conveyancing, Agreement and Contract matters with a minimum of supervision.

The Corporation own more than half the area of the borough. There are some 1,300 titles in the Town Clerk's Strong Room, and the annual Rent Roll (apart from Council houses) is £60,000.

The post is superannuable, and the provisions of the Local Government Superannuation Act, 1937, will apply thereto. A medical examination will be required. The appointment will be determinable by one month's notice on either side.

Applications—giving full particulars and accompanied by not more than three recent testimonials—must reach the undersigned not later than first post on Monday, September 10, 1951. No form of application is issued. Any relationship with Members of the Council should be disclosed in the application.

Canvassing in any form is prohibited and will disqualify.

W. STALEY BROOKES,
Town Clerk.

The Council House,
Walsall.
August 8, 1951.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

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NOTES of the WEEK

Evidence of Bad Character

English criminal law is strict about the exclusion of evidence which tends to prove that the accused is likely to commit an offence, but which does not really help to prove that he committed the particular offence with which he stands charged. In general therefore, evidence of previous convictions or of the commission of similar acts is held inadmissible, though there are necessary exceptions to the general rule. Thus, evidence of bad character may become admissible by reason of the provisions of a statute or because the defendant, by the nature of his defence, lets in such evidence. Further, apart from previous convictions evidence of acts similar to those alleged in the charge may be given to rebut a defence of accident or absence of intention.

The principles involved are clear, but their application sometimes presents difficulty. In a recent case, *R.* v. *Harrison-Owen* (*The Times*, July 31), the Court of Criminal Appeal, the court being composed of five judges, quashed a conviction at assizes, on a charge of burglary. The grounds of appeal were that the appellant was incapable of forming the necessary intention, by reason of his condition at the material time, and that his previous convictions were wrongly admitted in evidence. He had said, after arrest, that he had had a lot to drink, felt ill, and had no recollection of the acts with which he was charged. At the trial it was uncertain whether the appellant's defence was one of insanity or drunkenness, or of being in a condition akin to sleep-walking caused by drink, or, possibly, by a head injury.

The trial judge took the view that the defence amounted to one of accident, and he directed counsel for the prosecution that the whole of the appellant's past history should be put to him. The appellant then admitted that he had been convicted of some six or more cases of larceny or housebreaking.

The Lord Chief Justice, delivering the judgment of the court, said that the appellant was a man of bad character, with many previous convictions, and it was obvious that, once those previous convictions became known to the jury, he would have no chance of acquittal.

The judge had confused intention with accident. It was true that in certain cases, such as murder, where the defence was one of accident, it was relevant to show that other persons connected with the prisoner had died in similar circumstances: but in the present case the whole defence was that it was not a voluntary act, but was committed when the appellant was in a state of automatism, and the question whether it was or was not in fact a voluntary act was for the jury. Unfortunately, the judge had taken the view that the authorities entitled him to allow the appellant to be cross-examined about his previous convictions to show that the act was not an involuntary act. The court could not find any authority for that, and were of the opinion that there was no question of principle involved at all, except that, where the defence was that it was not a voluntary act, it was not permissible to cross-examine the accused about his previous convictions.

Assaulting a Witness

An assault upon a witness because of the evidence he has given, or an attempt to intimidate a prospective witness by threats, is always regarded as serious, because it is of the utmost importance that a witness should be able to tell the whole truth without fear of the consequences. It is a public duty to assist the court by giving material and trustworthy evidence, and so it is natural that witnesses should look to the court for protection in case of any kind of threat.

In a west country court, a man who had been fined for road traffic offences accosted a man who had given evidence against him, and then, it was alleged, assaulted him. The court had just risen, but the man was immediately charged and brought before the court again. He was bound over, and the chairman said that had the assault taken place a minute earlier the man would have been sent to prison for contempt of court. No doubt the chairman meant that an assault in face of the court would have been a serious aggravation of the assault which would have merited a heavier sentence, and not that a sentence for the specific offence of contempt of court would have been passed. A court of summary jurisdiction, it is generally considered, has no power to commit summarily for contempt, but the offence may be the subject of an indictment.

We certainly agree that an assault committed in the presence of the court deserves to be treated as one of some gravity.

Transmission of Probation Documents

We have by way of Practical Points and otherwise received, at intervals since the probation provisions of the Criminal Justice Act, 1948, were put in force, complaints that the documents needing to be transmitted hither and thither, to enable supervising courts and supervising probation officers to perform their duties, are not always transmitted as promptly as they should be, with resulting difficulty when a probation order comes within the ambit of another court.

Section 3 (6) of the Criminal Justice Act, 1948, sets out the procedure to be followed where the court which makes a probation order is not itself the supervising court, and paras. 2 (2) and 6 of sch. 1 deal similarly with the procedure to be followed when an order is amended because the probationer has moved to another petty sessional division. It is important that the supervising

court and the supervising probation officer should receive without avoidable delay all relevant information about the probationer; there cannot be adequate supervision without full knowledge of the probationer's background and the circumstances of the offence which led to the making of the probation order. There is at present no uniform practice in the transmission of documents, and it is by no means uncommon for the supervising court and probation officer to become aware of a transfer to their area from the probationer or from the warden of a hostel or home.

We are informed that this matter was discussd recently at a meeting at the Home Office, convened on the recommendation of the Probation Advisory and Training Board, at which were representatives of the Justices' Clerks' Society and the National Association of Probation Officers, and it was decided to recommend the adoption of the following procedure as a practical method of fulfilling the statutory requirements:

A.—On making a probation order (s. 3 (6)): (1) Action by the clerk of the court—(*a*) give copies of the order to the probation officer attached to the court; (*b*) send copy of the order and other relevant documents (*e.g.*, any reports from the probation officer, school, or doctor) to the clerk of the supervising court. (2) Action by the probation officer—(*a*) give copy of the order to the probationer; (*b*) send copy of the order and record of supervision form (which should be completed as far as possible) to the supervising probation officer; (*c*) send copy of the order to the warden of any institution in which the probationer is required to reside.

B.—On amending a probation order because the probationer has moved to another petty sessional division (paras. 2 (2) and 6 of sch. 1): (1) Action by the clerk of the court—send copies of the order, a case summary (*see* (2) (*a*) below) and any reports and other documents (*e.g.*, the original order and any earlier amending orders) to the clerk of the supervising court. (2) Action by the probation officer—(*a*) provide clerk with a case summary (*see* (1) above); (*b*) send record of supervision to the new supervising probation officer.

If this practice is followed, and documents are transmitted without delay (if possible on the day of the hearing), both the supervising court and probation officer should receive prompt and adequate information about the probationer for whom they are responsible.

The supervising court will no doubt appreciate the importance, if proper supervision is to be exercised, of passing on without delay the court reports and (in the case of an amending order) a copy of the order, to the probation officer responsible for supervision. The adoption of a uniform practice would greatly facilitate the smooth working of these provisions, and we share the hope expressed on the Home Secretary's behalf that all will co-operate, by using the recommended procedure and by ensuring that action is taken promptly.

Summary Offences and Committal for Trial

It sometimes happens that when a person who is charged with an indictable offence is committed for trial there are also summary charges, probably connected with the indictable charge upon which he cannot be tried on indictment. In such an event it is usual to adjourn the summary cases until after the result of the trial for the indictable offence is known. The defendant might much prefer to have all the cases tried together at the one session if that were possible, and it would probably be thought convenient by the prosecution.

In Eire, the Criminal Justice Act, 1951, provides in s. 6 as follows: "Where a person is sent forward for trial for an indictable offence, the indictment may contain a count for having committed any offence triable summarily (in this section referred to as a summary offence) with which he has been charged and which arises out of the same set of facts and if found guilty on that count he may be sentenced to suffer any punishment which could be inflicted on a person summarily convicted of the summary offence."

This should prove a useful provision, but already it has given rise to some difficulty in practice. The *Irish Law Times and Solicitors Journal* asks: "Does this allow for a situation to arise whereby an accused person is liable to be prosecuted in two different courts at the same time for the same offence?" This has, it appears actually happened, a man having been summoned to one court to answer certain road traffic offences, and to another court for the same offences plus a charge of manslaughter. The matter is now *sub judice*, and we shall be interested to see what happens in the end with regard to the summary charges, which were dismissed by the district justice when he learnt of the proceedings by indictment.

The Guardianship and Maintenance of Infants Act, 1951

This is a short statute but it contains several useful amendments of the law. It received the Royal Assent on August 1, and it was gratifying to find copies available within a few days, so that magistrates, clerks and practitioners could study it without any delay. The Home Office was prompt in issuing a short explanatory circular, No. 160/1951.

Everybody will be glad that the unsatisfactory position as to venue in guardianship cases, as decided in *R.* v. *Sandbach JJ. Ex parte Smith* [1951] 2 All E.R. 781, has now been remedied. The venue for the county court or the magistrates' court is now where either the applicant or the respondent or the infant resides, subject to certain special provisions with regard to Scotland or Northern Ireland. It will be remembered that applications under the Guardianship of Infants Acts, where one of the parties is in Scotland or Northern Ireland are also dealt with in the Maintenance Orders Act, 1950. Orders made before the passing of the new Act which, according to *R.* v. *Sandbach JJ.*, *supra*, were made without jurisdiction are validated, provided they have not been quashed or discharged.

Another satisfactory change in the law is the raising from 20*s.* to 30*s.* of the maximum weekly payment in respect of an order under the Guardianship of Infants Acts made by a magistrates' court. There is also an increase from 10*s.* to 30*s.* a week in the weekly amount that can be ordered when, upon the discharge of a married woman's maintenance order on the ground of adultery, a fresh order is made continuing custody with her of children of the marriage. Payment may be continued up to the age of twenty-one in the case of a child who is engaged in a course of education or training. The Home Office circular states that such extension was already lawful in the case of an order under the Guardianship of Infants Acts, and that no new provision was therefore necessary for such orders.

The necessary power to vary existing orders is contained in the Act, and the Finance Act, 1944, s. 5, is amended so that payments under orders for weekly payments up to 30*s.* must be paid in full, without deduction of income tax, and this applies until the infant reaches the age of twenty-one.

A Report from Ashton-under-Lyne

The annual report of the learned clerk to the justices for Ashton-under-Lyne, besides containing much information about the work of the courts, includes some outspoken opinions and frank criticisms which may be of interest to a much wider circle than that of the justices concerned.

The report records some decrease in black market offences but laments the prevalence of crimes of dishonesty and the attitude of those who commit them. "The modern attitude seems to be that what is 'mine' is 'my own' and what is 'thine' belongs to me if I can get it without getting into trouble . . ." His idea (the defendant's) seems to be that if he is not found out he gets the stolen goods or money, and if he is found out, well he will have to return it and perhaps be put on probation. Certainly our social reformers have put over the idea of "treatment" not "punishment" to the thieves and rogues if they haven't entirely succeeded in doing so to the magistracy.

The report also deplores the state of juvenile crime and the failure of earlier hopes, that the tide was receding, to materialize. The Children and Young Persons Act, 1933, comes in for criticism, and it is suggested that if the Act has failed, the legislature should have sufficient courage to amend it and not try to explain its failure away on other grounds. Unfortunately so much of our legislation in respect of children is coloured by the theories, dogmas and prejudices of people who have an axe to grind and lack the "ordinary common sense" viewpoint of people who know children, have brought them up and had a lot to do with them." We cannot agree that the 1933 Act has been a failure, and we think that there are plenty of people with common sense and experience of children among those who influence the course of legislation, but frank criticism is not unwelcome if it leads to discussion, which in turn may lead to improvements.

It is pointed out that matrimonial cases dealt with by magistrates often present great difficulties, and that legal aid may be more of a necessity than in undefended divorce cases in the High Court. Attention is called to the anomaly revealed by an appeal from a decision of justices, the learned President said the appeal ought not to have been brought as it was clear from the notes of evidence that the appellant could not hope to succeed. The appeal was accordingly dismissed. The appellant had been granted legal aid for his appeal, and, says Mr. Platt: "It seems strange to me that public funds should be spent on a grant for legal aid for an appeal which should never have been brought and yet funds are not available for an original hearing before magistrates when very often the parties desperately need to be represented by a lawyer."

Essex Weights and Measures Report

Weights and measures departments of county councils cover a wide field of activities, as the report we have received from the Chief Inspector for Essex shows. The list of statutes and bye-laws administered runs to some twenty or more in number. The general public is barely conscious of most of the work done in its interests, and reports like this one deserve publicity.

The department deals with many kinds of foods as well as with fuel, sand and ballast, and various types of weighing and measuring machines and instruments. New legislation prescribing a standard for ice-cream is welcomed. This, it is considered, will result in fair competition in the production and sale of a food-stuff which is rapidly increasing in popularity.

Turning to the sale of coal and coke, the report has to admit that offences continue to be numerous and serious. During the year 6,606 sacks of coal and/or coke were weighed and of the number 1,132 were found deficient of the represented weight. This shows a deterioration on the 1949-50 position.

With regard to food and drugs: "With the exception of milk, the quality of the goods is satisfactory. In fact, although a total of 836 samples of food and drugs (other than milk) were taken during the year only thirteen were found to be in any way unsatisfactory. With milk, however, the position is quite different. A total of 2,011 samples were taken during the year and of this number 126 were found to be unsatisfactory." As milk is one of the most important items in the national diet, the need for continued watchfulness as to its quality is obvious.

On the whole, however, this report, with its tables of statistics, shows a satisfactory state of affairs in the county.

Probation in the Isle of Ely

The combined probation area of the county of the Isle of Ely comprises a number of petty sessional divisions with a population that is largely rural. It seems curious in these days to read of unemployment, but there is something of a problem in this area, especially around Wisbech. "Casual land work under gang-masters attracts many juveniles away from steady jobs on account of the high wages paid during the summer months and leaves them at a loose end at the close of the season. These young people tend to live extravagantly while money is plentiful and find it hard to cut down accustomed smokes and entertainment in the winter months. Many eventually join the ranks of unskilled labourers. This tendency might be counteracted by the provision at Peterborough of hostel accommodation for boys and girls going there for employment. At the same time facilities might be provided to attract suitable boys and girls into the Isle of Ely to train for skilled work in agriculture and its allied trades. This end could perhaps be brought nearer by concerted action by the probation committees for the neighbouring areas in consultation with the corresponding agricultural executive committees. It is strange indeed that boys from East Anglia are at present going to Shrewsbury for farm training."

It might be added that excessively high wages paid to young people are one indirect cause of juvenile crime, because they encourage extravagant habits and sometimes lead to stealing for the purpose of gratifying those habits when the high wages cease.

There has been a steady rise in the case load of the male officer during the past few years which though it may be satisfactory as showing appreciation of the value of probation, may put a strain on the officer and may necessitate an addition to the staff.

There is the common, one might almost say usual, complaint of inadequate provision for the mentally defective and mentally handicapped.

Purchase of Land by Local Authorities

We are able this week to announce the publication of a 4*s.* work (4*s.* 6*d.* by post) entitled *Local Authorities' Powers of Purchase*. This is a tabular statement of the compulsory and other powers of purchasing land which are possessed by local authorities, and is compiled by Mr. A. S. Wisdom. The learned author, a solicitor in the office of one of the largest public authorities, has (we believe) broken new ground and dug over it most thoroughly. The purposes for which land may be acquired are set out, as far as possible, in chronological order of their conferment upon local authorities. Each is followed by the enabling statutes, both for compulsory purchase and purchase by agreement, the local authorities concerned, and the confirming authority for compulsory purchase. A column of "observations" gives cross-references where more departments are involved than one, and notes of limiting factors such as a statutory *quantum*. The tabular statement is obtainable from us, directly or through any bookseller. To some, even of our own readers, the number and variety of powers will come as a surprise. By very many of them the table compiled by Mr. Wisdom is likely to be used constantly in their daily work.

Statutory Tenants less than Yearly Tenants

Our Notes of the Week at pp. 434 and 465, *ante*, upon the relation between compulsory purchase orders and occupiers who as "statutory tenants" enjoy protection under the Rent Restrictions Acts, have prompted a very learned correspondent to query whether the statutory tenant really has "no greater interest than that of a tenant for a year or from year to year," as it is expressed in s. 121 of the Lands Clauses Consolidation Act, 1845. If not, *cadit quaestio*, because it is only persons with an interest not greater than that of a tenant for a year or from year to year who are affected by s. 121. Our correspondent answers his own query, by pointing out that a contractual tenant for a week, month, or quarter must be within s. 121 as having an interest less than that of a yearly tenant, and yet he has something more than has a statutory tenant—more, because he has his contract and, if that is terminated by notice, can still fall back upon a statutory tenancy. Upon this line of reasoning it seems clear that the interest of a statutory tenant is not greater than that of a yearly tenant, and the result can, perhaps, be reached by another road as well. It will not be doubted by any real property lawyer that a tenancy for life (being a freehold) is greater than a leasehold for ninety-nine or 999 years; in other words, "greatness" depends upon the quality rather than the quantity of the tenant's holding. The so-called "statutory tenant" is most like a tenant by sufferance, if one attempts to bring him into the established legal categories, and textbook writers have doubted whether a tenancy by sufferance ought to be classified as a tenancy at all. It seems to us that a tenant by sufferance, whom Parliament has allowed to continue in that status during his own lifetime, cannot, in terms of the law as it stood in 1845, be considered to have an interest greater than that of a tenant for years. For what it may be worth the view of the law, advanced in this note and advanced in our earlier notes above mentioned, does have the advantage of making the law workable. So far as we can see, it would upon the contrary view be impossible to work the Act of 1845 and its successors, where the land to be acquired by compulsory purchase was occupied by statutory tenants.

"ADOPTION BY NUMBER"

[CONTRIBUTED]

The Adoption Act, 1950, makes it legal for a person to consent to the making of an adoption order without knowing the identity of the applicant for the order; and where the consent so given by any person is subsequently withdrawn on the ground only that he does not know the identity of the applicant, his consent shall be deemed to be unreasonably withheld (s. 3 (3)). No doubt those who were responsible for framing this Act adopted the not unreasonable argument that a person who was prepared to hand over his or her child for adoption without caring who the adopter was could not be allowed, having once consented, to withdraw consent merely because he or she did not know the identity of the adopter. It was probably with that in mind that r. 12 of the Adoption of Children (Summary Jurisdiction) Rules, 1949, was worded as it was. Shortly, that rule requires that where an adopter requires his identity to be kept confidential, the proceedings shall be conducted with a view to securing that he is not seen by or made known to any respondent, and the court must direct that the applicant and the respondent shall be heard and examined separately and apart.

A situation has arisen in practice which does not seem to have been anticipated by those responsible for this Act and the rules. It is the case where a mother, having consented to an adoption by "serial number" subsequently withdraws her consent on a ground other than that she does not know the identity of the applicant. In the case in point, the mother withdrew her consent, having decided that she could not bring herself to part with the child.

It is instructive to examine from that point the procedure to be adopted by the court. It is, of course, a case to which r. 12 applies. Arrangements must therefore be made for the court to hear and examine the mother and the applicant separately and apart. A day is fixed (usually prior to the date on which the applicant will appear) when the mother appears to state her objection to the adoption. It must not be forgotten that the applicant will already have had the child for a minimum of three months, but not being present he cannot hear the mother's objection or question her in any way. The court, presumably, will form an opinion of some kind, and later, probably on a different day, will see the applicant and hear his evidence. This again, being given in the absence of the mother, will go unquestioned by her.

Now comes the most difficult part of the business. Having seen and heard both parties separately and apart, the court has to decide whether the mother's consent is to be dispensed with. It will be recalled that that course may only be followed on the grounds set out in s. 3 (1) (*a*) and (*b*); namely, that the parent has abandoned, neglected or persistently ill-treated the infant, or that the parent cannot be found or is incapable of giving consent or that the consent is unreasonably withheld. Assuming that none of the first named reasons is applicable the court has to find, in the case under consideration, that the mother's consent is unreasonably withheld, on evidence taken in a fashion which is unquestionably completely contrary to the normal principles of English law. Assume again, for the moment, that it decides against the mother. Natural justice demands that she be recalled and told the decision of the court before the court takes the ultimate step of making the adoption order. This will mean two further hearings—one in order to see her, and, one to see the applicant again. Thus, the case will necessitate four hearings, all conducted in the wholly unsatisfactory atmosphere of having but one party before the court at a time.

If, however, the court decides that the mother's consent is not unreasonably withheld it is almost certain to reach that conclusion before seeing the applicants, as the fact that the parties are not known to each other precludes any possibility of one saying anything against the character of the other. It would appear that the court is obliged to see the applicant, as, an application having been filed, it must be heard. The court therefore approaches the application with its mind already determined on the outcome. The proceedings then become farcical, and whichever way the court decides the case it is hard to say that justice has been done.

It is hardly necessary to dwell on the possibilities that can arise where it is sought to dispense with the consent of the mother on the ground that she has abondoned, neglected or ill-treated the infant. The inherent dangers are self-evident.

As a practical solution to this difficult problem juvenile courts might like to make use of the power given by r. 14 to refuse to make an order on the ground that the case appears to the court to be more fit to be dealt with by the High Court. Alternatively, the applicant might consent to his identity being revealed when both parties may be seen and heard together.

NON-PAYMENT OF RATES: POWER OF JUSTICES TO COMMIT

By M. LESLIE KEYES, *Barrister-at-Law*

When a person, who is liable to pay a certain sum in respect of rates to the local rating authority, defaults in the payment of the sum due, then a distress may be levied upon his goods by virtue of s. 1 of the Distress for Rates Act, 1849, and s. 2 (3) of the Rating and Valuation Act, 1925.

If the official in whose charge the execution of the warrant of distress is, reports that the defaulter has insufficient goods to satisfy the debt due plus the cost of the distress, then by virtue of s. 2 of the Distress for Rates Act, 1849, the justices have the power to commit the defaulter to prison for a period of up to three months.

This power of committal is, however, subject to the limitations imposed by s. 10 of the Money Payments (Justices Procedure) Act, 1935. That section provides that the justices shall hold an inquiry in the presence of the defaulter, to ascertain whether or not the non-payment was due to wilful refusal or culpable neglect. The power to enforce the attendance of the defaulter is contained in s. 11 of the Act.

It is further provided by s. 10 (1) (*b*) of the Act of 1935, that if the justices are of opinion that the non-payment was not due to the wilful refusal or culpable neglect of the defaulter, then he shall not be committed to prison. It follows from this provision that the justices shall make a most careful and particular inquiry into the means, circumstances and conduct of a defaulter.

If, for example, it is found on inquiry that the defaulter is not in employment and has made every reasonable effort to obtain work and is willing to pay the sum due when he is in work, then quite clearly the proviso must apply and the defaulter should not be committed. If, on the other hand, the defaulter is out of work and has either made no effort to obtain it or has, for instance, registered at his local Labour Exchange, but has refused the jobs offered for insufficient reason, then the proviso might well not apply and he may be committed.

The justices must have regard to the evidence before them and must not be moved by such matters as, for instance, the size of the sum due. It was held in *R.* v. *Woking Justices* (1942) 106 J.P. 232, which was decided on another section of the Money Payments Act, 1935, that the justices should not at that stage regard the gravity of the offence and that if a defaulter clearly had no means wherewith to pay the sum due, then he should not be committed.

The inquiry must cover all aspects of the defaulter's financial position, *i.e.*, his income, family, rent, etc. If a defaulter has been ordered by another court to pay certain regular sums on pain of committal, then it would be an abuse of the spirit of the proviso if the justices failed to take that order into account and put the defaulter in the position where he could only satisfy one of the courts, and would then be liable to committal by the other court.

The source of the defaulter's income might also be of some materiality. Suppose, for example, he was in receipt of National Assistance. The justices might well be tempted to order him to pay some small sum out of the amount so received to the local rating authority. However, it should be remembered that National Assistance is not given so that a man might pay his debts, and the result of such an order might conceivably be that his National Assistance will be reduced.

It was decided in *R.* v. *Dunne* (1943) 107 J.P. 161, that there was no onus upon the prosecution to prove that the defaulter had the means to pay. This case was decided under s. 1 (3) of the 1935 Act but it is submitted that the same considerations apply to s. 10.

If the defaulter has had sufficient sums to discharge the indebtedness between the time that the indebtedness accrued and the date of the inquiry, and if he has spent them heedless of his obligation then the proviso will not apply.

Finally, it should be remembered that, by virtue of s. 10 (2), when an application for commitment is made and refused then the justices have power to remit all or part of the amount due. This power should, of course, be exercised with great caution and presumably only in cases of great hardship.

FOOD AND DRUGS ACT, 1938

SECTIONS 3 AND 84 AND THIRD SCHEDULE

By K. A. ROUND

(1) When will a prosecution under s. 3 of the Food and Drugs Act, 1938, for selling milk which was not of the quality demanded by the purchaser, be allowed to proceed notwithstanding the failure of the local authority to comply with a notice sent to them by the defendant in purported exercise of his right under sch. 3 of the Act? (2) Is such a notice invalid if it incorrectly states the time when milk from a corresponding milking will be delivered? (3) What is the interpretation to be placed upon the words " mixture of milk obtained by him from more than one person " in proviso (*b*) to para. (2) of sch. 3. (4) What constitutes a change in the state of milk so as to defeat the defence of warranty? (5) What is meant by the words " various consignments " as used in the judgment in the case of *Child* v. *Great Eastern Dairy Co. Ltd.* (1925) 89 J. P. N. 382?

These were among the points argued in a recent case before a court of summary jurisdiction in which the writer was concerned. A limited company engaged in selling milk by retail was summoned upon an information alleging the sale by the company to the prejudice of the purchaser of milk which was not of the quality demanded by the purchaser in that the said milk was deficient in milk fat by at least seventeen *per cent.* contrary to s. 3 of the Food and Drugs Act, 1938.

The facts of the case were that the defendants purchased all their milk from a wholesaler who in turn purchased it from the Milk Marketing Board who in turn purchased it from the Ministry of Food to whom it had been sold by the farmer-producers. Each morning four milk tankers, each containing 1,400 gallons of raw milk, arrived at the defendants' dairy direct from the wholesalers creamery. With each tanker was a dispatch note bearing a warranty " that the milk comprised in the consign-

ment referred to in this dispatch note is pure new milk, sweet, clean and marketable with all its cream without the addition of any preservatives." There was nothing in the dispatch notes to show the original source of the milk or whether it was the produce of an evening's milking or of a morning's milking. At about the same time as the tankers arrived the defendants received into their dairy four lorry loads of churns *direct from some forty-three farmer-producers*; the total number of churns thus conveyed was 400, each containing about ten gallons of raw milk. Attached to each churn was a label bearing a similar warranty issued by the wholesaler and indicating the time of the milking, *i.e.*, evening or morning. The whole of the milk in both the tankers and the churns was included in the contract between the defendants and the wholesaler. The milk was then discharged into an underground tank with a capacity of 2,000 gallons, and passed through the pasteurizing plant and bottled as it left the last stage of this process. The milk thus pasteurized and bottled remained over-night at the defendants' dairy and was delivered to customers during the following morning.

One morning, duly authorized officers of the local authority took a formal sample of milk so sold by the defendants, the contents of three one-third pint bottles being mixed together for the purpose. The public analyst later certified this sample to be deficient in milk fat by at least seventeen *per cent.* (*i.e.*, seventeen *per cent.* of the three *per cent.* normally found in genuine milk).

Within sixty hours after this sample was procured, the defendants sent to the local authority a notice stating the wholesalers' name and address, requesting the authority to take a sample of " milk from a corresponding milking " in the course of transit or delivery to the defendants. The time of arrival of the " milk from a corresponding milking " was given as " between 10 *a.m.* and 1 *p.m.*" on the next day and the next day but one after the sample was procured. On the latter day a sampling officer arrived at the dairy at 9.30 *a.m.* intending to comply with the notice. Five minutes later, the first of the four tankers came into the yard and forthwith began discharging its milk into the underground tank—twenty-five minutes before, according to notice, the first of the milk was due to be delivered. After a conversation with the defendants' manager, the sampling officer left before the delivery of all the milk was complete and did not take any sample. His reasons for not doing so were: (1) The manager was unable to indicate whether the milk in any of the tankers was from a morning's milking or from an evening's milking, *i.e.*, he could not show the sampling officer " milk from a corresponding milking." (2) The manager agreed that it would be impossible to keep the milk in the tankers properly plunged—obviously necessary before a truly representative sample could be taken. (3) A sample, or samples taken from the churns alone would have been as worthless as samples taken from the tankers alone, since the milk from which the offending sample had been taken consisted of a mixture of milk from both tankers and churns.

The defence having given notice of their intention to rely on the warranty defence, the prosecution adduced evidence from the public analyst who gave as his opinion that the milk from which the offending sample was procured was not then in the same state as when purchased by the defendants because when the sample was procured the milk had been pasteurized and the process of pasteurization had reduced the vitamin " C " content thus breaking down the bacteria which impair the keeping quality of the milk.

Such were the facts which gave rise to submissions by both sides on a number of interesting points inspired by s. 84 and sch. 3 of the 1938 Act. These submissions are set out below under two heads, followed by the writer's general observations.

I. NON-COMPLIANCE WITH NOTICE UNDER THE THIRD SCHEDULE

The relevant paragraphs of sch. 3 provide: " (2) Within sixty hours after the sample was procured from the purveyor he may serve on the authority by whose officer it was procured, or, if it was not procured by an officer of any authority, on the Food and Drugs authority within whose area it was procured, a notice (*a*) stating the name and address of the seller or consignor from whom he received the milk and the time and place of delivery to himself *of milk from a corresponding milking* (*b*), and requesting the authority to take immediate steps to procure, as soon as practicable, a sample of milk from a *corresponding milking* in the course of transit or delivery to himself from the seller or consignor:

Provided that: (*a*) . . . (*b*) The purveyor shall have no right to require that such a sample shall be procured if the milk from which the sample procured from him was taken was a mixture of milk obtained *by him* from more than one person.

(3) If a purveyor has served on the authority such a notice as aforesaid, and the authority have . . . omitted to procure a sample of milk from the seller or consignor in accordance with the foregoing provisions, no proceedings under this Act shall be taken against the purveyor in respect of the sample procured from him."

SUBMISSION FOR THE DEFENCE

Before the plea was taken, the defence submitted that para. (3) of sch. 3 applied, and invited the bench to strike out the information. It was argued that: (1) Notice had been duly served upon the authority under para. (2) and had not been complied with, (2) That proviso (*b*) to para. (2) did not apply because, although the milk from which the sample was procured was a mixture of milk, that milk had not been " obtained " by the defendants from " more than one person." The words " purchase " and " obtain " were synonymous and as the defendants had purchased all the milk from one person, namely the wholesaler, they had also " obtained " it from that one person. (3) Therefore, by virtue of para. (3) no proceedings could be taken against the defendants under the Act in respect of the offending sample.

REPLY FOR THE PROSECUTION

On behalf of the prosecution, it was contended that proviso (*b*) to para. (2) of sch. 3 applied in this case, and, therefore, that para. (3) could not be invoked. The schedule clearly contemplated by its use of the alternative words " seller " and " consignor," the possibility of a purveyor, obtaining—or, to use a neutral expression, coming into possession of—milk from a person other than a person who sells it to him. Accordingly while a purveyor might purchase his milk from a " seller," he might, as in this case, " obtain " it from someone else, the consignor. It was submitted that the word " obtain " was not a term of art in that context and must be given its popular meaning, *i.e.*, to get possession of; the defendants got possession of the milk from the several persons who had directly sent it to them; they had mixed that milk, and the offending sample had been procured from the mixture. To hold otherwise would, it was suggested, stultify the object of the third schedule, namely to enable the milk from which an offending sample is procured to be traced back to the source, or at least, back to the persons in whose possession it was immediately before it came into the possession of the purveyor.

Should it be necessary to argue further, said the prosecution, (1) the notice was invalid, because the time of delivery of " milk from a corresponding milking " was incorrectly stated;

twenty-five minutes before the sampling officer was obliged to arrive to comply with the notice, one quarter of the milk carried in tankers had already been discharged into the underground tank. In the prosecution's view, that was clearly a most material particular in respect of which the notice was inaccurate, and surely no notice containing such an inaccuracy could be valid. (2) The defendants could not shelter behind the protective provisions of para. (3) for to do so would be contrary to the common law principle that no man will be allowed to benefit by his own fault. The impossibility of compliance with the notice had arisen directly from the inability of the defendants to identify any part of the milk as " milk from a corresponding milking " to that from which the offending sample had been procured. In addition the milk in the tankers could not have been properly sampled owing to the impossibility of keeping it fully plunged. Without stating their reasons, the bench ruled that the prosecution could be proceeded with.

Evidence was then adduced by both sides and the facts as stated were established, the defence relying on s. 84.

II. THE WARRANTY DEFENCE

So far as it is relevant to the present case, s. 84 provides : " (1) Subject to the provisions of this section, in the case of any prosecution under Part I . . . of this Act in respect of selling . . . an article which was not of a . . . quality entitling a person to sell . . . it under the description under which the defendant dealt with it, it shall be a defence for the defendant to prove (*a*) . . . (*b*) . . . (*c*) that it was then (the time of the sale by the defendant) in the same state as when he purchased it.

(2) (*a*) . . . (*b*) . . . (*c*) in the case of a prosecution in respect of a sample of milk, the defendant has within sixty hours after the sample was procured served such a notice as is mentioned in para. (2) of sch. 3 to this Act."

SUBMISSION FOR THE DEFENCE

At the close of the evidence for the defence, the defending solicitor submitted simply that he had proved all that was required to be proved by s. 84, and, therefore, that a complete defence under that section had been made out.

REPLY FOR THE PROSECUTION

The prosecution's contention was that neither subs. (1) (*c*) nor subs. (2) (*c*) had been complied with. Under subs. (1) (*c*) it was necessary for the defence to prove that the milk had not been altered in any way between the time of purchase and the time of sale by the defendants ; the milk in question had been pasteurized, which process had, according to the public analyst, altered its state.

Further, it was argued, the milk from which the sample had been taken was a mixture of " milk of various consignments," the words used in the judgment in the case of *Child* v. *Great Eastern Dairy Co. Ltd.* (1925) 89 J.P.N. 382, in which it was held by a Divisional Court that the mixing of milk of various consignments would cause the milk to be not in the same state, even though each consignment be covered by a warranty (as in the present case). While it might be argued, said the prosecution, that the whole of the milk both in the tankers and in the churns formed only one consignment because it was all covered by one contract with one wholesaler, through whose instrumentality the milk had reached the defendants, the prosecution's view was that the milk delivered direct from the wholesaler's creamery in the tankers was in itself one consignment, but the milk delivered in the churns, having been sent, and, therefore, consigned by forty-three different farmers direct from their farms, constituted consignments quite distinct from that delivered by tanker. The word " consignment " had to be given its ordinary literal meaning which was " something physically sent by one person to another." In any event, it was argued, whatever was meant by " various consignments," the milk had been produced by many different sources and had been mixed by the defendants and could not, therefore, have been in the same state when sold as when purchased.

The prosecution then turned to subs. 2 (*c*), their contention concerning the validity of the notice and the impossibility to comply with it following the pattern described earlier in this article.

REPLY FOR THE DEFENCE

The defence disagreed that the milk from which the sample had been taken was " a mixture of milk of various consignments." They said that the only consignor of all the milk was the wholesaler ; the contract was with the wholesaler alone ; and it was the wholesaler who had arranged for the collection and delivery of the milk to the defendants.

With regard to subs. 2 (*c*) the defence argued that the notice was a valid one ; that the milk described in the notice as being of " a corresponding milking " was of a corresponding milking so far as the defendants were aware ; and that the inaccurate statement of the time of arrival of the " corresponding milking " was not material enough to affect the validity of the notice, because the sampling officer was at the dairy early enough to see the first of the milk arriving.

The defendants were convicted and fined £2.

It was only by the conviction that the magistrates gave any indication of their views on the case, for they did not give a ruling, stating their reasons, on any of the submissions made to them. It is, however, clear that with regard to the preliminary submissions concerning the notice under sch. 3, and the failure of the authority to comply with it, they must have decided on all or any of the following grounds that para. (3) of sch. 3 did not apply : (a) That the notice was invalid by reason of the inaccuracy as to the time of arrival of the " corresponding milking "; (*b*) That the impossibility of complying with the notice precluded the defendants from relying on para. (3) of sch. 3 ; (*c*) That proviso (*b*) to para. (2) applied because the defendants had " obtained " the milk from the farmer-producers as well as from the wholesaler ; in other words, that the milk from which the sample had been taken " was a mixture of milk obtained " by the defendants " from more than one person."

With regard to the defence under s. 84, this was apparently rejected for either or both of the following reasons : (*a*) The state of the milk had been altered by pasteurization and/or by mixing together " milk of various consignments." (*b*) The notice was invalid or, because of the impossibility of compliance, was not as envisaged by the Act.

However, this much does clearly emerge ; in the opinion of the magistrates, a defendant to a charge under s. 3 of the Food and Drugs Act, 1938, relating to milk, cannot escape prosecution by the mere service of a notice under sch. 3. If it be a correct interpretation of the law that where milk is received in large quantities in such circumstances as to render impossible the taking of representative samples, the protection of sch. 3 will be completely out of reach of the large number of retailers similar to the defendants in this case. It may be that local authorities emboldened by the result of the case under discussion, will prosecute in similar instances, and consequently this point may be decided by a Divisional Court. Whatever may be the decision of that court it seems that amending legislation would be necessary to safeguard the interests of the retailers or the local authorities, according to the nature of the decision.

CONFESSIONS FROM THE PRESS TABLE

By A NEWSPAPERMAN

This article is partly in the nature of an open admission. In twenty years of daily and weekly newspaper work I have invariably found that relationships between press and local government are cordial and co-operative. Nevertheless, I believe, from experience and observation, that there is justification for council officials' two main complaints. These are : That newspapers too frequently send young reporters to " cover " council debates and local government news ; that some newspapers are fond of conducting vendettas against councils (and, by implication, their staffs) on issues which may be either genuine or purposely worked up.

Local authority workers are not the only ones to be surprised at the youthfulness of journalists entrusted with tasks of public responsibility. In his *Indiscretions of a Magistrate*, Basil Henriques points out that most reporters present at East London Juvenile Court were young enough to come before the magistrates if suspected of transgression.

The unfairness to the journalistic recruit as well as to public and officials has long been recognized within the ranks of the newspaper profession. The matter was fully ventilated at the inquiry of the Royal Commission on the press, but, as an older journalist, I urge local government officials to carry their complaints on this score direct to the editor's sanctum.

There is undoubtedly far too much exploitation of juvenile labour in the sphere of local newspapers, although nominally there is supposed to be a strict limit to the ratio of juniors to seniors. The often confused reporting and occasional howlers which result from the practice are injurious to the interests and prestige of journalists.

A " cub " reporter should, for a long time after his entry to the profession, accompany senior reporters at the press table and learn his craft from them. But the period of such training is cut short, as a rule, far too early.

A determined effort to root out the evil is to be made by the organizations representing the local daily and weekly newspapers, the editors and working journalists. Together they have reached agreement on a thorough five-year training scheme in which the study of local government practice, theory and law is to be given the attention it requires. In the not-far-distant future, therefore, a higher standard of reporting should be discernible in the local press.

As to newspaper vendettas, and the way to meet them, the best counsel I can give is to cultivate as close relationships as possible with the local press in order to neutralize their effect. Newspaper crusades are mostly conducted from a distance by news editors and reporters who are strangers to the victims. Local editors and reporters who are meeting council officials and councillors most days of the week are usually very careful what they write about them.

When a crusade begins, therefore, it is best to be as open as possible with the local newspaper men, who may be acting as correspondents for the " crusaders," and would be in a position to weaken the campaign by supplying copy leading to balanced conclusions.

The punctual issue of agendas, early release of committee decisions, off-the-record talks, and public relations sessions, all help to maintain goodwill even though they do not seem to confer an immediate benefit.

For my own part I have, in a varied career in newspapers throughout the country, a strong appreciation of the quality and quantity of work put in by local government staffs, and I believe this attitude to be true of most journalists whose work takes them to council offices and into council debating rooms.

WEEKLY NOTES OF CASES

COURT OF CRIMINAL APPEAL

(Before Lord Goddard, C.J., Hilbery, Byrne, Finnemore and Ormerod, JJ.)

July 30, 1951

R. *v.* HARRISON-OWEN

Criminal Law—Evidence—Character of prisoner—Cross-examination on previous convictions—Charge of burglary—Defence that presence in house was involuntary—Criminal Evidence Act, 1898 (61 *and* 62 *Vict., c.* 36), *s.* 1 (*f*).

APPEAL against conviction.

The appellant was convicted at Flint Assizes before STABLE, J., of burglary and was sentenced to two years' corrective training. The appellant was found in a house at about 1 *a.m.* At the trial he put forward the defence that his presence in the house was due to an involuntary act, he having entered in a state of automatism. The judge ruled that the defence raised was one of accident, and that the prosecution were entitled to cross-examine the appellant on his previous convictions, which they did.

Held, that where the defence, as in the present case, is that the act proved against the prisoner was not voluntary, but unintentional, the prosecution had no right to cross-examine him on his previous convictions, and the conviction must be quashed.

Counsel : *Edmund Davies, K.C.*, and *Philip Owen* for the appellant ; *Gerald Howard, K.C.* and *John Gazdar*, for the Crown.

Solicitors : *Registrar of Court of Criminal Appeal* ; *Director of Public Prosecutions.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

(Before Lord Goddard, C.J., Hilbery and Ormerod, JJ.)

July 30, 1951

R. *v.* LURIE

Criminal Law—False pretences—Indictment—Obtaining by defendant for third person—Larceny Act, 1916 (6 *and* 7 *Geo.* 5, *c.* 50), *s.* 32 (1).

APPEAL against conviction and sentence.

The appellant was convicted before the Commissioner at the Central Criminal Court of conspiracy to defraud and of obtaining money by false pretences, and he was sentenced to two consecutive terms of eighteen months' imprisonment. In each of the charges of false pretences the indictment alleged that he had obtained a cheque from N, and in each case the cheque was made payable by N to a company and were paid into the company's banking account.

Held, that the appellant should have been charged with obtaining the cheques for the company and not with obtaining them for himself, and that on that ground the convictions and sentences for false pretences must be quashed.

Counsel : *C. N. Shawcross, K.C.*, and *B. S. Wingate-Saul* for the appellant.

Solicitors : *James Brodie & Co.* ; *Registrar Director of Public Prosecutions.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

KING'S BENCH DIVISION

(Before Lord Goddard, C.J., Hilbery and Ormerod, JJ.)

July 17, 24, 1951

R. *v.* TORQUAY LICENSING JUSTICES
Ex parte BROOKMAN

Licensing—Grant of licence—Right of justices to lay down general rule—Restricted licence—Application for full licence—Policy with regard to such applications already announced—Consideration of particular application considered on merits.

APPLICATION for order of *mandamus.*

In 1948 a licence was granted to the applicant, W. J. Brookman, for the sale of intoxicating liquors at the Rosetor Hotel, Torquay, for a period of three and a quarter years, a condition being attached that liquor should only be supplied to residents and to those taking *bona fide* meals at the hotel and that there should be no bar on the premises. At the adjourned general annual licensing meeting held on March 6, 1950, the then chairman of the licensing justices said that in future circumstances would have to be very exceptional before they would grant full licences in place of restricted licences. He said that it was the unanimous opinion of the bench that as licensing justices they had treated residential hotels very generously in the past, that applicants applied for restricted licences, saying that that would meet their ends, and the justices felt that they were not receiving due reciprocal duty by the continual attempts to get full licences in place of restricted ones. On February 8, 1951, the applicant applied for a full licence, and, in dismissing the application, the chairman of the justices said : " The bench carefully considered the application, but is not prepared to alter the policy for the table licences as granted. The licence for the Rosetor Hotel will be renewed on the old terms." The chairman of the justices filed an affidavit in which he said that they had been fully advised by their clerk that it was illegal for them to lay down any hard and fast rule with regard to such applications and that they were fully aware that each application must be heard and judged solely on its individual merits. He further said that they heard counsel for the applicant and the opposition and that they retired and fully considered the matter and were of the opinion that the needs of the public were not such as to justify them in renewing the licence with the deletion of the no bar clause. The applicant obtained leave to apply for an order of *mandamus* directing the justices to hear and determine his application for a new licence according to law, on the ground that they had refused the application because they had laid down a pre-determined rule that full licences would not be granted in place of restricted licences and that they had failed to decide the application on its merits.

Held, that the justices were entitled to determine that, as a general rule, they would look with disfavour on a person who had obtained a restricted licence subsequently applying for a full licence, and that in such a case a considerable burden would be thrown on the applicant, but that, if such an application were made, the justices were bound to deal with it on the merits and consider whether, on the facts of the particular case, there was sufficient to take it out of the general rule which they had laid down. As the decision of the justices in the present case, though not very happily worded, showed that they had followed that procedure, the application must be refused.

Counsel : *Raymond Stock* for the applicant ; *Curtis-Bennett, K.C.*, and *F. Fisher* for the justices.

Solicitors : *Wood, Nash & Co., for Kitsons, Easterbrook & Co.*, Torquay ; *J. E. Lickfold & Sons, for Carter, Fisher & Co.*, Torquay.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

July 23, 1951

R. *v.* SURREY QUARTER SESSIONS.

Ex parte LILLEY

Quarter Sessions—Appeal from petty sessional court—Person aggrieved—County council—Order to pay costs—Nurseries and Child-minders Regulation Act, 1948 (11 *and* 12 *Geo.* 6, *c.* 53), *s.* 6 (4)—*Public Health Act*, 1936 (26 *Geo.* 5 *and* 1 *Edw.* 8, *c.* 49), *s.* 301.

APPLICATION for order of *certiorari*.

The applicant, Miss Sadie Lilley, applied to the Surrey County Council under s. 1 (2) of the Nurseries and Child-minders Regulation Act, 1948, to be registered as a child-minder. The county council made an order for her registration, but under s. 2 of the Act imposed requirements thereto. Objecting to those conditions, the applicant appealed, under s. 6 (4) of the Act, to a court of summary jurisdiction at Kingston-on-Thames for their removal. When the appeal came before that court by way of complaint, the court dealt with a matter extraneous to the question of the conditions, which matter the applicant desired to bring before it ; decided that the applicant was not a person who needed to be registered under the Act at all ; and awarded costs against the county council. The county council appealed to Surrey Quarter Sessions, and the applicant there objected that quarter sessions had no jurisdiction to hear the appeal. Quarter sessions overruled the objection, heard the appeal, and allowed it. The applicant obtained leave to apply for an order of *certiorari* to quash the order of quarter sessions allowing the county council's appeal on the ground that it had been made without jurisdiction.

Held, following *Jennings* v. *Kelly* ([1939] 4 All E.R. 464), that the county council, having been ordered to pay costs, were " persons aggrieved " within the meaning of s. 301 of the Public Health Act, 1936 (applied to s. 6 of the Act of 1948 by subs. (5) thereof), and, accordingly, were entitled to appeal to quarter sessions. The application for *certiorari* must, therefore, be refused.

Counsel : *Garfitt* for the applicant ; *Baillieu* for the justices.

Solicitors : *Rising & Ravenscroft*, for *Sherwood Cobbing & Williams*, Kingston-on-Thames. *Wyatt & Co.*, for *T. W. W. Gooderidge*, Kingston-on-Thames.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

MISCELLANEOUS INFORMATION

THE RECRUITMENT OF JUNIOR STAFF

The Warwickshire County Council is launching a scheme to combat the acute shortage of junior clerical staff from which it is suffering. One reason suggested for the shortage is the number of offices in the Warwick and Leamington area where, in addition to the county council, there are two corporations, a rural district council, a hospital management committee, a health executive council and a county agricultural committee.

A pamphlet explaining the opportunities in local government is being published for circulation to youth employment offices and schools as part of a publicity drive.

Various new amenities are planned for the existing staff especially to encourage the ambitious ones in the junior clerical grades. They include leave with pay for officers wishing to study for examinations, and talks during office hours by members of the senior staff. A special room is to be set aside where officers lacking suitable facilities at home may study in the evening.

MOTOR VEHICLES CONSTRUCTION AND USE REGULATIONS : RELAXATIONS FOR WORKS TRUCKS

Certain amendments to the Motor Vehicles (Construction and Use) Regulations, 1947, came into force on July 16, 1951, under regulations made by the Minister of Transport. These regulations (the Motor Vehicles (Construction and Use) Amendment (No. 2) Regulations, 1951) : (i) permit the limited use of works trucks between, for example, neighbouring factory premises ; (ii) introduce minor relaxations in respect of pedestrian controlled vehicles (such as hand-operated electric milk floats) and road sweeping vehicles; (iii) authorize the drawing of certain trailers of up to 45 *cwts.* total weight (instead of 40 *cwt.* as at present) without an attendant ; (iv) revoke the requirement that the size of tyre must be marked on the wheels of heavy motor cars.

Copies of these Regulations, which are entitled the Motor Vehicles (Construction and Use) (Amendment) (No. 2) Regulations, 1951, can be obtained from H.M. Stationery Office, price 3*d*.

DISPOSAL OF VESTED STOCK IN SIEMENS BROS., & CO., LTD.

The Board of Trade announce that after full consideration of the tenders submitted it has been decided to accept the offer made by Associated Electrical Industries, Ltd., for the purchase of the stock in Siemens Brothers & Co., Ltd., now vested in the Custodian of Enemy Property.

SANITARY INSPECTORS' WORKING PARTY

The Minister of Health has appointed a small working party to inquire into the nature of the work at present being done by sanitary inspectors and the nature and functioning of the present arrangements for their recruitment, training and qualification, and to report on the adequacy of such arrangements.

The working party will consist of Sir John Maude, K.C.B., K.B.E. (chairman); Dr. N. R. Beattie, M.D., F.R.C.P. (Ministry of Health), Dr. J. S. G. Burnett, M.D., D.P.H. (medical officer of health, Preston), Mr. R. Williams, D.P.A., M.R.S.I., M.S.I.A. (chief sanitary inspector, Coventry), Mr. Ieuan Lewis, M.S.I.A. (senior sanitary inspector, Pontardawe R.D.C.), and Mr. L. G. White, C.B.E.

It will be assisted by a Steering Committee comprising representatives of the Ministries of Health, Education, Labour, Agriculture and Fisheries, Food, Local Government and Planning and the Home Office and of the : Association of Municipal Corporations ; County Councils Association ; Urban District Councils Association ; Rural District Councils Association ; Metropolitan Boroughs Standing Joint Committee ; Sanitary Inspectors Association ; Royal Sanitary Institute ; Royal Sanitary Institute and Sanitary Inspectors Examination Joint Board ; Society of Medical Officers of Health.

The Secretary is Mr. W. A. Fuller of the Ministry of Health.

REVIEWS

County Court Practice, 1951. By His Honour Judge Edgar Dale, Bruce Humfrey, R. C. L. Gregory, Wilfred Dell, F. G. Glanfield. London : Butterworth & Co. (Publishers) Ltd., Sweet & Maxwell, Ltd., Stevens & Sons, Ltd. Price £3 7s. 6d. Post free.

The three sets of practice books (*The Annual Practice*, *The County Court Practice*, and *Stone's Justices' Manual*) may be regarded as the foundation of the practising lawyer's library. Possibly the *County Court Practice* is for a large part of the profession the most important of the three. It is certainly a work with which no practising solicitor can safely dispense, since there is always the danger that new rules will have been made, or new decisions given affecting the procedure. The present edition includes the County Court Amendment Rules, 1950, which came into force on September 1, 1950, and also the Amendment (No. 2) Rules, 1950, which appeared in December of that year. The present edition had by then reached proof stage but, at the cost of some inconvenience and delay, the proofs were altered so as to incorporate all the changes made up to the end of the year. The same year saw the County Court Fees (Amendment) Order, 1950, and the County Court Funds Rules. These changes alone would have made it important to obtain this most recent issue of the work, and 1950 was also noteworthy for the coming to an end of the Courts (Emergency Powers) Act, 1943, and the Liabilities (War-Time Adjustment) Acts with their related rules. Thus it has become possible, for the first time for many years, to drop the separate part of the book (which had been distinguished by printing on blue paper) dealing with emergency legislation. We thus have now two main divisions of the work, the one embodying (primarily) the procedural provisions, and the other the statutes conferring special jurisdiction on the county courts. In this second part a new title "Housing" has been planned, so as to separate this particular aspect of the law of landlord and tenant from other aspects, and there are a few new Acts, duly noted in the preface. Apart from the inclusion of the County Court Rules as they stood at the end of 1950, the law is stated as it existed at the end of October of that year, so that it is necessary for the user of the work to be in the alert for possible changes in the interval. This rather long gap, between the operative date and the date of publication, is unavoidable under present conditions with a work of this sort which involves so great a mass of detail. Apart from the matters we have mentioned, the lay-out of the book is too well known to need detailed description, but we feel that a word of congratulation is due to those responsible for the clarity of the text (especially the tabular and semi-tabular matter), notwithstanding the small type which has to be used if the work is not to become even more bulky than it is. There is the usual excellent index ; with this and the headings, cross-headings, and side notes, it is possible to find anything that is required at a moment's notice.

Valuation for Compensation and Development Charges (Supplement). By Ronald Collier. London : Butterworth & Co. (Publishers) Ltd. Price 15s. net.

This work is a Supplement to *Valuation for Compensation and Development Charges* by the same author and publishers, and is designed principally to deal with problems arising out of the Planning Payments (War Damage) Scheme and the published statements of the Treasury and the Central Land Board. The opportunity has been taken to print a noter-up to the main volume. The lay-out of the work generally is on lines familiar to those who use *Butterworths Annotated Legislation Service* (and who in the profession does not, if he wishes to keep up to date ?): that is to say, Part I consists of the noter-up to the main work, and Part II corresponds to Division II of the main work, re-written to bring it up-to-date, with particular reference to the General Development Charge Exemptions Regulations. Part V of the present work is a compendium by Mr. Collier, originally for his own use in practice, of points decided by the Courts ; to this he has added a few blank pages, for valuers to make notes of decisions coming their way. This will save the user of the book from having to refer too often to the Law Reports since he will find, under his hand, a sufficient (if brief) note of the points decided by the Courts, not merely under recent legislation but going back well into the last century. For example, the decision of the House of Lords upon injurious affection in *Imperial Gas Light and Coke Company* v. *Broadbent* (1859) 7 H.L. Cas. 600, is fundamental to the distinction between damages and compensation. It should be noticed that this compendium is not limited to cases arising out of the narrower function of the book : cases on all aspects of compensation are brought in, so far as they affect the valuation of land. Readers should not overlook the observation of the White Knight, quoted in the preface, in relation to all this strange business of development charges. How long the law will remain in its present state is mainly a question for the politicians : it is not going to be easy to unscramble the omelet which the theorists of war time, and the politicians since the war, have made of the development of land—although we find some knowledgeable persons expressing the opinion that, before long, Parliament may be driven to cut its losses, and return to something more like what used to be the ordinary methods of governing development. However this may be, it is meanwhile necessary for all persons concerned with dealings in land, either as surveyors or as lawyers, to make themselves familiar with the principles and practice of valuing for compensation and development ; we scarcely see how this is to be done without study of the two works, *i.e.*, the main work and the present supplement—these are obtainable together for 32*s.* 6*d.* net.

Paterson on Prisons. Edited with an Introduction by S. K. Ruck. London : Frederick Muller Ltd., Price 15s. net.

This is not a book on prisons by the late Sir Alexander Paterson, but is a collection of various reports, official minutes, departmental instructions, papers to professional gatherings, and occasional articles. These deal mostly with prisons, prisoners and the prison service, but they reflect the character and outlook of Alec Paterson towards life, its problems and purpose, and show how it was that he could exercise so profound an influence on people and policies.

Mr. Ruck's introduction, following a graceful foreword by the Prime Minister, sketches in bold outline the career of a man who was imbued at an early age with high ideals and a great love for his fellowmen. He was no mean scholar, he became a distinguished soldier, and might have achieved success in many walks of life, but having seen how the poor lived by living in their very midst in days of widespread unemployment and insecurity, he resolved to devote his life and his talents to the solution of some of the most urgent problems of social reform. In due course, work among prisoners and borstal boys caught him up, and he became the inspiration behind a great wave of reform which largely changed the nature and purpose of the prison and borstal systems. As a prison commissioner he constantly visited prisons and borstals in this country, but he enriched his knowledge and experience by visits to many other lands, within and without the British Empire. He was quick to see the merits of other systems, even when they were on the whole inferior to our own, and what he has written on American prisons, which include some of the best in the world as well as some of the worst, and on the way in which Italy contrives (or at all events used to contrive) to make the best possible use of prison labour without upsetting the free workers, is worth close study.

Some of the papers were written many years ago, and it might add to the value of the book if a date were attached to each. Some of the reforms he advocates have been introduced and a great deal of the Criminal Justice Act, 1948, follows his plan.

Because he was a great reformer and a man of wide sympathy and humane instincts, Paterson is thought by some to have been unpractical and sentimental. Nothing could be farther from the truth. He never shrank from duty however hard it might be, whether he was soldier or civilian. He believed that there was good in every man, and that the right approach to the criminal was to appeal to that good. That is why he preferred training centres and open borstals to high walls and bolts and bars, so long as there was hope of reform and rehabilitation. He was a realist, however, and quite prepared to deal with dangerous recidivists by locking them up for the protection of the public. His paper on capital punishment shows that though he disliked it and wanted to see fewer executions, he did not think the time ripe for total abolition. He was against very long sentences of imprisonment, holding that a sentence of much more than ten years might kill a man's soul by degrees and prove worse than death, but that did not mean that he would let loose upon society those who remained a danger to it.

For the majority of prisoners with proper classification, a term of imprisonment could, he believed, be a time of training, which would result in improvement rather than deterioration, so that a man might re-enter the world equipped to earn his living and not bereft of hope. Naturally, Paterson laid great emphasis on the right type of staff of all ranks, possessed of the right qualities and trained for the work. Prisoners should be occupied on hard work which would call out their energy, and payment should be one form of incentive.

There are some interesting thoughts on the relative effects of environment and heredity, an admirable chapter on discipline, a moving letter to a colleague in the French prison service on conditions in the penal settlement in Guiana, and a delightful set of notes, lighthearted but full or wisdom, which he wrote for the benefit of subordinate prison officers taking more senior positions in the Colonies.

Sir Alexander Paterson recognized that bold schemes of reform

may succeed because of an exceptional personality behind them, and he instances the case of Thomas Mott Osborne, of Sing Sing. Many people may be tempted to say that because Paterson was himself such a personality his schemes will fail without him. That is unwarranted pessimism. Paterson was an exceptional judge of men, and the English prison service which he believed to be the best in the world, was enriched by the recruitment of devoted and disinterested men who think as he thought and will continue the work he began.

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CORRESPONDENCE

[The Editor of the *Justice of the Peace and Local Government Review* invites correspondence on any subject dealt with in its columns, for example, magisterial matters, probation, local government, etc.]

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

FORM OF SUMMONS IN MATRIMONIAL CASES

I suggest that some improvement could be effected in the printing of the form of summons in matrimonial cases.

It would assist solicitors generally if the name and address of the clerk to the justices were printed on the summons together with his telephone number.

This perhaps would be of even more assistance to unrepresented defendants. They have not the same facilities for looking up the locus of the court and list of practitioners which appear in the different legal diaries.

Perhaps you will give this letter publicity to obtain the feeling of the profession.

Yours faithfully,
STANLEY LAMBERT.

S. & C. Lambert,
Solicitors,
18 John Street,
Sunderland.

NOTICE

The next court of quarter sessions for the city of Hereford will be held at the Shirehall, Hereford, on Friday, August 31, at 10.30 *a.m.*

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 51.

A ROAD HAULAGE CASE OF INTEREST

A defendant who had been carrying on an old established family road haulage business was summoned at Bangor Magistrates' Court in July, 1951, to answer an information alleging that in May, 1951, he had used a certain motor lorry for the carriage of goods for hire or reward from Liverpool to Gaerwen, although he was not the holder of a current permit issued by the Road Haulage Executive, contrary to s. 52 (1) of the Transport Act, 1947, and ss. 8 and 9 of the Road and Rail Traffic Act, 1933.

For the prosecution, evidence was given that one of defendant's lorries was seen in Liverpool, some eighty miles from its base, on May 9. Although it had an " A " licence, it was limited, since the nationalisation of road haulage, to a radius of twenty-five miles from Bethesda in common with other similar private carriers' vehicles. Defendant had previously applied for, and had received permits to run outside this radius, on the grounds that the business was old-established. An " original " permit was usually granted where this was the case, but because there had been a change of licensee—defendant's partner, an uncle, had died—no " original " permit could be granted under the relevant Act and instead, as a concession, the Road Haulage Executive granted " Hardship Concession " permits. These permitted defendant to operate normally under the conditions of his " A " licence as he had done before the vesting date. The validity of the permit terminated on April 30, 1951, and defendant then applied for partial acquisition of his business and six of his lorries were to be taken over on August 28, next. Under the Act those vehicles about to be taken over were automatically freed from the twenty-five mile limit, but the vehicle seen at Liverpool was not one of those scheduled to be taken over.

For the prosecution, an official of the Road Haulage Executive stated that the licensing authority regarded the case as being of some importance as it was becoming all too common for carriers, in situations similar to the defendant's, to substitute a lorry not about to be acquired, for one that was to be acquired, and thus add to the difficulties of the Executive by unregulated competition which could have serious repercussions on the revenue of the Executive.

The witness agreed, in cross-examination, that substitution was a normal procedure, and that it was done to serve a customer and to preserve the goodwill of the firm, but in doing so a breach of the regulations was committed.

Defendant, in evidence, stated that his sole aim had been to preserve the business. He had applied for another permit and had rung up the Executive daily, but no one seemed able to authorize the issue of a permit, or definitely to refuse one and his letters were not answered.

Defendant stated he thought he was right in running any six of his eleven lorries and that, when in use, any six would be regarded as being freed from the twenty-five mile limit.

In a final address on behalf of defendant, it was urged that defendant had innocently misinterpreted the provisions of the Act. " It is a mad world," said counsel, " when a man can be pulled up by someone for trying to maintain the goodwill of a business for which he is going to be paid compensation by them."

Defendant was fined £2 and ordered to pay £5 costs.

COMMENT

The various classes of licence and the privileges and restrictions attaching to the same are fully detailed in s. 2 of the Road and Rail Traffic Act, 1933.

It would appear clear from the report detailed above, for which the writer is greatly indebted to Mr. E. Lloyd Jones, clerk to the Bangor Justices, that although an offence was undoubtedly committed by the defendant, it might fairly be urged on his behalf that so long as no more than six of the eleven lorries owned by him were being operated the spirit, if not the letter, of his agreement with the Road Haulage Executive was being observed and it is difficult to resist some feeling of agreement with the comment made at the close of the defence which is mentioned above.

No. 52.

MORE OFFENCES IN REGARD TO CARRIERS' LICENCES

Three members of a Waunarlwydd family appeared recently at Swansea Magistrates' Court to answer sixteen charges alleging contraventions of s. 9 (1) of the Road and Rail Traffic Act, 1933. Twelve of the charges related to the misuse of a vehicle in respect of which a public " A " carriers' licence had been granted, and the remaining four to non-compliance with the conditions of a limited " B " carriers' licence held in respect of another vehicle.

For the prosecution, it was stated that the defendants, who carried on business together as transport contractors, operated from Waunarlwydd. They had three vehicles, one under an "A" licence, one under a " B " licence and a third under a " C " licence with which the prosecution was not concerned.

With certain exceptions, none of which affected the case, there was a twenty-five mile operation limit from Waunarlwydd in respect of the "A" licence and a thirty mile limit with the " B " licence.

Offences under the "A" licence were in regard to the operation of the vehicle outside the limit, while the offences under the " B " licences, numbering four, resulted also from the carriage of steel when, under the licence, the defendants were only permitted to carry building material and farm produce.

Drivers' record sheets or logbook showed that journeys were made outside the radius limits under the licences, and in some cases journeys were well over 100 miles.

Details of journeys made by the vehicles were given by the prosecution and it was stated that all were made for hire or reward. It was further stated that one of the defendants when interviewed by an officer of the licensing authority said : " The trouble is today you have to do a bit over or you are in the garage all the time."

For the defendants, who all pleaded guilty to all charges, it was urged that so far as the offences under the " B " licence were concerned it could be said off-hand that steel of any description was regarded by the man in the street as " building material " which was rather an elastic term.

The defence traced the history of the family in the haulage business and submitted that restrictions had changed the business carried on by the defendants which was formerly a very successful concern.

Each defendant was fined £2 on each summons, a total of £96 and in addition the defendants were ordered to pay between them costs amounting to £23 2s.

COMMENT

Section 9 (1) of the Road and Rail Traffic Act, 1933, provides that any person who fails to comply with any condition of a licence held by him shall be guilty of an offence under the Act.

Carter v. *Mace* (1949) 113 J.P. 527, established that a hirer of a goods vehicle may be guilty of aiding and abetting an offence under s. 9 if he fails to see that a person whose vehicle he hires can lawfully carry out his contract.

By s. 35 (2) of the Act it is provided that a person guilty of an offence for which no special penalty is provided shall be liable in the case of a first offence to a fine not exceeding £20 and in the case of a second or subsequent conviction to a fine not exceeding £50.

PENALTIES

Clevedon—July, 1951—neglecting daughters aged seven and five (two charges)—one month's imprisonment each charge (concurrent). Defendant, a woman of forty, went for a fourteen day holiday to Germany leaving another daughter aged fifteen in charge.

Dudley—July, 1951—stealing £22 from defendant's widowed mother —fined £10, with the alternative of two months' imprisonment. Defendant, aged thirty-one and unemployed, said he had no money and was sent to prison.

Scilly Isles—July, 1951—no wireless licence—fined £6. To pay £1 costs. Defendant said he did not know it was necessary to have one. Fourteen other defendants appeared on similar charges and the majority were fined.

Newcastle-upon-Tyne—July, 1951—obtaining money by false pretences —(six charges)—one month's imprisonment on each charge (consecutive). Defendant, a fifty-seven year old miner, wrongly claimed expenses as a county councillor on days when he was in fact working.

Hanley Juvenile Court—July, 1951—(1) driving away a bus without lawful authority, (2) driving without a licence—(1) fined £2. (2) fined 10s. Defendant, a boy of eleven, drove the bus three miles with his six year old brother as passenger. The chairman, after fining the boy, offered to find him an engineering job when he left school.

Lewes—July, 1951—wilfully interfering with the comfort of a railway passenger—fined 10s. Defendant, a thirty-eight year old bricklayer, put his arm round an eighteen year old girl in a railway carriage and kissed her. She slapped his face.

Rhyl—July, 1951—selling intoxicating liquor outside permitted hours, seven charges (two defendants). Defendants fined a total of £35, and to pay £10 10s. costs. Defendants joint licensees of a Rhyl hotel.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Children Act, 1948—*Contribution order—Illegitimate child.*

A county council asked the council of a county borough to obtain a contribution order against the father of an illegitimate child who has been taken into care by the county authority.

The father has come to reside within the area of the county borough authority who are responsible for collecting contributions from him, under s. 23 of the Children Act, 1948, and s. 86 of the Children and Young Persons Act, 1933.

The mother of the child still resides within the area of the county council.

As the child is illegitimate, it would seem that any application to the court must be an application for an affiliation order under s. 26 of the Children Act, 1948, and must be made by the county council, as their area "includes the place where the mother of the child resides," but, as the father has admitted parentage of the child, the county council contend that the county borough authority can obtain a contribution order against him under s. 87 of the Children and Young Persons Act, 1933, in the normal way.

Perhaps you would be good enough to give your opinion:

(1) As to which authority should apply for an order.

(2) Whether the application should be for an affiliation order or a contribution order.

(3) Generally. SOR.

Answer.

(1) In our opinion, the county council, in whose area the mother is residing, because (2) the application should be for an affiliation order.

(3) As a rule, the word "father" does not include "putative father" and we think a man must be adjudged to be the putative father, and not merely admit paternity before an order to contribute can be made against him. Compare s. 42 (2) of the National Assistance Act, 1948.

2.—Children and Young Persons—*Offence by young person—Attainment of age of seventeen before hearing—Jurisdiction of juvenile court.*

I would be grateful for your opinion on the following point.

A girl, born March 25, 1934, stole some money on March 17, 1951. She is summoned to appear at a juvenile court on April 25, 1951.

My reading of s. 99 (1) of the Children and Young Persons Act, 1933, suggests that she should appear before an adult court as she is now seventeen years of age. It has, however, been pointed out to me that s. 99 (2) of the Children and Young Persons Act, 1933, allows her to be charged before a juvenile court, as the offence occurred when she was sixteen.

I would be grateful for your view as to the proper court before which she should appear. SHER.

Answer.

Upon inquiry at the outset the court will become aware that the defendant is not a juvenile, and therefore the proceedings should be taken in the adult court. The suggestion that s. 99 (2) enables a juvenile court to deal with the matter overlooks the important words "at that date," *i.e.*, the date of the alleged offence. They do not refer to the date of the hearing at all, and therefore do not affect the jurisdiction in the way suggested.

3.—Company—*Annual general meeting—Certain business compulsory—Can other business be transacted after due notice?*

I am a shareholder in a company limited by guarantee and not having a share capital. By the articles of association the company is managed by a chairman and council; at the annual general meeting officers, etc., are to be elected, and reports by the council and by the treasurer are to be presented. The council have power to call special general meetings and must do so upon requisition from one tenth of the membership. At a special general meeting no business other than that specified in the notice calling the meeting can be transacted. Subject to the provisions of s. 117 (2) of the Companies Act, 1929, relating to special resolutions, at least seven clear days' notice of every general meeting has to be given to every member, stating the business to be transacted, and no business other than routine business can be taken without such notice.

Notice has been given to the chairman and secretary well in advance of the approaching annual general meeting, for inclusion in the agenda for that meeting, of resolutions requesting the council to set up a committee for investigating certain matters and to inquire into the adequacy of the present subscription. The chairman, upon legal advice, declines to include the notice of this proposed resolution on the agenda, stating that at the annual general meeting no business can be transacted except that which the articles declare to be compulsory. The large and scattered membership would make the collecting of signatures to a requisition for a special general meeting virtually impossible. I do not assert that the chairman and council can be compelled to put a motion for special business on the agenda, but I can find no provision to the effect stated by the chairman, *viz.*, that doing so would be *ultra vires*. I consider that, at the annual general meeting, business additional to the compulsory business can lawfully be transacted if due notice has been given. AAA.

Answer.

Whilst it may seem ungracious to express dissent from a legal opinion without seeing it in full (and seeing also the instructions to advise, if any) we are bound, on the material before us, to say that we are unable to understand the advice said to have been given to the chairman. The articles of association seem to be similar to table A in the Companies Act, 1929, as now re-enacted in the Companies Act, 1948, and clause 52 in table A (Act of 1948) expressly contemplates transacting special business at the annual general meeting.

4.—Housing Act, 1936—*Demolition order—Appeal—Forms of notice.*

A demolition order has been served by a local authority on my client under s. 11 (4) of the Act, and he wishes to appeal to the county court pursuant to s. 15. Printed on the back of the order is a note which reads as follows: "The county court rules provide that an appeal shall be brought by giving notice of the appeal to the local authority and at the same time requesting the registrar of the county court having jurisdiction in the matter to enter the appeal.

The county court rules further provide that the notice to the local authority and the request to the registrar for entry of appeal shall, so far as circumstances permit, be in accordance with the forms prescribed by the rules."

The order is an official form prescribed by the Housing Act (Forms of Orders and Notices) Regulations, 1937.

A note to s. 15 in the *County Court Practice*, 1951, at p. 1250 states that "no special rules have yet been made under this section, and, therefore, ord. 6, r. 6, applies." The Housing Act (Forms of Orders and Notices) Regulations, 1937 (S.R. & O., No. 78), prescribes no forms or procedure under this section.

Under ord. 6, r. 6, the appellant is required (*a*) to file a copy of the order appealed against, and (*b*) a request for the entry of the appeal; and if the enactment requires the appellant to give notice of appeal to the other party a copy of such notice is to be filed with the request. The registrar then gives notice to the other side.

The enactment (s. 15) does not provide any procedure for the appeal, except by rules which do not appear to have been made, and in the absence of such rules the note printed on the back of the order (set out above) would appear to have no legal standing.

In these circumstances could you kindly advise as to the forms and procedure to be adopted in this case. ACC.

Answer.

The line of safety seems to be to comply with ord. 6, r. 6, and also to give notice to the council and file a copy: this is at worst supererogatory, and will tend to avoid complaint, either by the council or by the court.

5.—Housing Act, 1936—*Demolition order—Suggested use of house for storage.*

I was interested in your reply to P.P. 5 at 115 J.P.N. 220. Would you agree that, if the permission of the local planning authority has been obtained for the re-development of the site, there could be no objection to the utilization of materials from the cottage either *in situ* where this is practicable or from salvage? ARG.

Answer.

We agree. Neither the Housing Acts nor any others preclude the use of material (if itself sound and fit for its intended purpose) from a demolished building, on the same or on another site.

6.—Husband and Wife—*Maintenance arrears—Commitment suspended on conditions—Condition not fulfilled—Whether wife can prevent execution of warrant.*

A woman summoned her husband for desertion under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1950, and obtained a maintenance order whereby the husband was ordered to pay her the weekly sum of £1 together with the weekly sum of 10s. in respect of a child of the marriage until such child should attain

the age of sixteen years, and the husband was also ordered to pay to his wife the sum of £2 14*s.* 6*d.* costs incurred by her in obtaining the said order.

The husband refused to pay the amount as ordered and was eventually brought before the court in respect of very substantial arrears when he was ordered to be committed to prison for three months but such commitment to be suspended so long as he paid the current order of 30*s.* together with 10*s.* weekly off the arrears. The husband has failed to comply with the order of the court with regard to the payment of the arrears and the clerk to the justices proposes to carry out the decision of the justices and hand the commitment to the police for execution but the wife strongly objects to this step being taken as she does not desire to see her husband go to prison although he has defaulted with his payments. Under these circumstances will the clerk to the justices be justified in putting the commitment into operation notwithstanding the objection of the wife or must he refrain from so doing until the wife gives her permission for this to be done? CAP.

Answer.

The wife has set the law in motion and the court has adjudicated. We do not think the wife can now stop the execution of the warrant of commitment, as the matter is one for the court to decide. Nevertheless, we suggest that the clerk should not hand out the warrant for execution without informing the court of all the facts, and the court may possibly decide to give effect to the wishes of the wife by further suspension of the warrant or by withdrawing it if she wishes to go so far as to request that this should be done.

7.—Income Tax—*Schedule A—Charge primarily on occupier—Licence to deposit refuse.*

In 1945, the local authority entered into an agreement with a certain company, whereby the company agreed to grant them a licence to deposit refuse upon land owned by the company. The agreement further conferred on the local authority the right of entry upon the land for this purpose, and the right to erect, where approved by the company, huts for the accommodation of workmen. It also contained a clause reserving to the company the right to tip on the land in mutually agreed places. This reservation has been exercised by the company only to a very limited extent.

There are further clauses, limiting the place of entry, granting the company the right to make reasonable directions as to the location of the tipping, and requiring the local authority to level and cover the tipped area.

No rent or charge whatsoever is payable by either party under this agreement, and no mention is made of the payment of rates or taxes. The agreement is terminable on six months' notice by either party, and is of mutual benefit to both parties.

The local authority has been requested to supply income tax returns, and has now received a notice of assessment under sch. A. Since this tax cannot be deducted from rent, as no rent is payable, the local authority must apparently suffer it themselves.

Schedule A tax is, according to the Income Tax Act, 1918, charged on and payable by the occupier. This word is defined in *Inland Revenue Commissioners* v. *Miller* [1930] A.C. 222, as having its ordinary meaning; the ascertainment being a question of fact and not of law. A right to enter is stated not to be a right to occupy.

I should appreciate your advice on the following:

1. Whether the local authority is the occupier of the property for the purposes of Income Tax Acts, and is therefore liable to income tax under sch. A.

2. If so, have they any right to recover any of the tax from the company? AEX.

Answer.

1. In the case cited it was established by the House of Lords that occupation for purposes of sch. A is in principle a question of fact. It is also a question of fact in rating, and in rating law it seems unlikely that a person in this local authority's position would be a rateable occupier. Nevertheless, r. 2 in No. VIII of the schedule does contain a definition, and looking to this Lawrence, J., in *Betram* v. *Wightman* [1936] 2 All E.R. 487 expressed an opinion which has been generally accepted) that the meaning may be wider in sch. A than in rating law. It is probably on this that the revenue were relying when they served the notice on the local authority. The case law is confused (there is in *Buck* v. *Daniels* [1925] 1 K.B. 526 an opinion of Scrutton, L.J., contrary to that of Lawrence, J., *supra*), and it is impossible to be sure which way the High Court would regard the facts before us, but in favour of the local authority may be mentioned *Donald* v. *Thompson* [1922] S.C. 237 where it was held that a person who used lands for grazing, the owner having all other rights, was not an occupier for the present purpose.

Something may turn upon a fact not stated in the query, *viz.*, whether the local authority have put up huts for their workmen as authorized by the licence. Subject to this, we incline (with hesitation) to think they are, like the grazier, not occupiers for the present purpose.

2. Does not arise as put, but it seems there can be joint occupiers for this purpose: *Shanks* v. *I.R. Commissioners* [1929] 1 K.B. 342, which was approved by the House of Lords in *I.R. Commissioners* v. *Miller*, *supra*.

8.—National Assistance Act, 1948, s. 47—*Removal to home for aged persons—Justices' order not accompanying aged person.*

My council, on March 14, 1951, applied for and obtained an order of the court under s. 47 of the National Assistance Act, 1948, ordering the removal of an aged person from her home to an aged persons' home provided by the county council and ordering the person managing such home to detain her for a period of three months. A copy of the order is herewith.

At the hearing of the application the person managing the home gave evidence to the effect that accommodation was available thereat and of his willingness to receive her. The person was removed on March 16 but left after only about fifteen minutes and refusing to stay. Apparently no steps were taken to detain her.

The county council now agree that under subs. (3) a person could be forcibly detained. They maintain, however, that by legal precedence the court order should have been handed to the person in charge of the home at the same time as the aged person and as this was not done they maintain there was a technical flaw in the handling of the case and the district council should either:

(*a*) Bring the aged person before the court and invoke subs. (11) with a view to having her fined, or preferably; (*b*) to agree that the case was improperly handled in the first instance and have a new court order made out.

It will be noted that the person in charge of the home attended the hearing of the application and heard the justices make the order for removal and detention and also after the order was made agreed with the date and time at which the aged person was to be received at the home. A written order of the court did not, however, accompany the aged person when she was removed to the home but she was received by the person managing the same without question.

Would you please advise:

(*a*) If the order of the court must accompany the aged person when being removed to the home?

(*b*) If the aged person could again be removed to the home under the present order?

(*c*) Whether: (i) The correct procedure is for a new order to be applied for on the ground that the original order did not accompany the aged person, or (ii) that the procedure adopted by the district council was in order?

(*d*) Generally on the matter. SAEB.

Answer.

It appears that everything was done regularly and that there was no dispute as to the existence of a valid order in writing. While it is undoubtedly the right practice to send a written order of detention with the person to be detained, we think that in this case the omission is not fatal, as the keeper of the premises was present at the hearing and consented to the order. In our opinion, therefore the answers are:

(*a*) This is always desirable, but not an indispensable requirement.

(*b*) We think so.

(*c*) The procedure was in order.

(*d*) As we have said, it is always better to draw up the order in writing and send it with the person, so as to avoid questions such as have actually arisen in this instance.

9.—Private Street Works—*Uncertain whether street already repairable—Council willing to bear whole expense—Whether formal steps essential.*

The Private Street Works Act, 1892, has been adopted and in this area is a street which the council desire to make up. Statements have been made to the effect that, years ago and from time to time, the council's workmen carried out certain minor works in this street, but proof of this is not yet forthcoming. If the council make up the street, owing to the relatively poor class of property fronting and abutting the street, it is not proposed to recharge any cost to the frontagers. This appears to be within the powers of the council under s. 15 of the 1982 Act, whereby the council could resolve to contribute the whole of the private street works expenses.

Your opinion on the following points would be appreciated:

1. If confirmation can be obtained, as to the correctness of the statements as to minor works of repair to this street having been executed by the council in the past, will it be necessary to pass the formal resolutions required by ss. 6 (1) and (2) and 15, and to affix the notices required by s. 19 of the 1892 Act?

2. If notwithstanding such confirmation it is considered that the formal procedure should be followed, or if through such confirmation not being obtained, it is necessary to follow the procedure of the Act, having regard to the council's intention not to recharge any cost to the frontagers, will it be necessary, besides passing the requisite resolution under ss. 6 (1) and 15 of the Act, preparing the specification and estimate under s. 6 (2) and obtaining the approval resolution under the same subsection, also to :

(a) publish the resolution under s. 6 (3).

(b) serve a copy of the resolution on the owners. It will be noted that subs. 3 states that copies should be served on the owners of the premises shown as liable to be charged. ABB.

Answer.

We take it that the point of seeking information about the past work done by the council is that such work would be evidence that the street is already a highway repairable by the inhabitants at large. If it is, it is completely outside the Act of 1892, and the procedure of that Act should not be followed at all.

Although work done by the council in the past is evidence, it is not conclusive proof that the street is already a highway repairable. But if the council are prepared to act upon the view that the street is already repairable by them, we cannot in such a case see who will be concerned to question their doing so. The frontagers will have no motive, and the other ratepayers will, by cutting out the expense of formal procedure under the Act, be better off than if the council used the Act and paid the cost under s. 15.

10.—Public Health Act, 1936, s. 55—*Access for house refuse—Provision and obstruction.*

1. Do you consider that the council would be justified under s. 55 (1) of the Public Health Act, 1936, in rejecting plans of a house where the plans disclose that there would be no means of access (*a*) for the removal of refuse from the rear of the house to the street at the front of the house ; (*b*) for the removal of faecal matter from the rear of the house to the street in front of the house, it being assumed in both cases that there is no secondary means of access for the council's vehicles by way of a street at the rear of the house ?

2. If your reply to the points mentioned in the preceding paragraph is in the negative, what would be the position in the case of a house already erected where there is a space between the house and boundary of the plot on which the house is built which has hitherto been used by the council's refuse collectors to obtain the dustbin from the rear of the house to bring out to the street, and the owner now proposes to erect buildings which will completely close the gap between the house and the boundary fence, at the same time offering either to place his dustbin in front of the house, or to make it available to the refuse collectors when they call ? In these circumstances, do you consider the council could successfully take proceedings against the house-owner under s. 55 (2) for closing the means of access, if the council do refuse consent to the proposals put forward by the householder ? A. REFUSE.

Answer.

1. Yes ; it is for the council in the first instance to consider whether the access is satisfactory, subject to a decision by the justices under the last part of subs. (1). It might be held, either by the council or by the justices, that access to the front door was good enough for house refuse (thousands of expensive London flats have to put their bin out through the front door), but not good enough for faecal matter. Each case must be considered on its own merits.

2. The answer under subs. (2) does not, as the query suggests, depend upon the answer given to the part of the query relating to subs. (1). Subsection (2) looks to what exists already in fact. The side access described cannot lawfully be closed or obstructed without the council's consent : *see Lumley's* note.

11.—Road Traffic Acts—*Insurance—Vehicles (Excise) Act, 1949—Trailer drawn without payment of extra duty—Policy excludes use of trailer—Offences.*

X towed a tip-up cart behind his motor lorry. He is summoned :

(1) For unlawfully using a mechanically propelled vehicle towing a trailer without having in force such a licence as is required, etc., contrary to s. 15 Vehicles (Excise) Act, 1949.

(2) For unlawfully using a motor vehicle while not having in force such a policy of insurance in respect of third party risks as required by Part II of the Road Traffic Act, 1930.

X's certificate of insurance specifically excludes cover whilst the vehicle is drawing a trailer. His policy of insurance covers him against

liability at law for compensation in respect of death of or bodily injury to any person caused by or arising out of the use of the vehicle. The insurers are authorized insurers. He is licensed for carrying farm goods.

Kindly advise whether you consider, in respect to the second charge, whether the case of *Leggate* v. *Brown* [1950] 2 All E.R. 564 is in point and whether a plea of Not Guilty should be entered and to rely on this case? JAM.

Answer.

We consider that *Leggate* v. *Brown, supra*, is not in point because in that case the policy permitted the use of the tractor when two trailers were drawn, and the matter complained of was that the trailers were laden. Here, however, the policy specifically excludes cover when a trailer is drawn. There appears to be no answer to this charge.

With regard to the first charge we should have thought, on the facts given, that the appropriate section is s. 13 (2) and not s. 15 (1).

12. Small Dwellings Acquisition Acts—*Rate of interest.*

My council have adopted the Small Dwellings Acquisition Acts and have made a practice of informing applicants, when the council have agreed to make an advance, of the period of repayment " with interest at the rate prevailing at the time of the granting of the advance." The present rate is 2½ *per cent.*

A rate of 2½ *per cent.* was quoted to an applicant in October, 1947, but owing to the delay in building the actual advance was not made until April, 1948. In the meantime, circular 7/48 of January 12, 1948, was received from the Ministry of Health, referring to a direction from the Treasury that the following rates of interest shall apply to loans advanced to local authorities on and after January 3, 1948.

	Per cent.
Loans for not more than five years	2
Loans for more than five years but not more than fifteen years	2½
Loans for more than fifteen years	3

The circular also refers to s. 92 (2) of the Housing Act, 1935, which provides that rates of interest on advances made by local authorities under the Small Dwellings Acquisition Acts be fixed at a rate ½ *per cent.* in excess of the rate which, one month before the date on which the terms of the loan or advance are settled, was the rate fixed by the Treasury in respect of loans from the local loans fund to local authorities for housing purposes.

In consequence of this circular, the rate inserted in the mortgage was 3½ *per cent.* and the draft mortgage, at this rate, was approved by the borrower's solicitors and signed by the borrower during April, 1948. Before the signing of the mortgage, the borrower expressed his regret that the council had made the increase, but nevertheless he signed the mortgage at the increased rate.

Approximately two years later, the borrower again raised the matter and took the view that the terms of the mortgage were " settled " by the council's original letter of October 23, 1947. He was informed that as he had signed the mortgage he was precluded from raising the question of the increase from 2½ *per cent.* to 3½ *per cent.* by reason of the doctrine of estoppel.

The borrower has now intimated that he intends to institute proceedings, as he is advised that the proper rate of interest should be 2½ *per cent.*

Your opinion therefore would be appreciated on the following points :

(*a*) Having regard to the provisions of subss. 92 (2) and (3) of the Housing Act, 1935, are the council correct in increasing the rate from 2½ *per cent.* to 3½ *per cent.*, in the light of the instruction from the Treasury?

(*b*) Were the terms of the advance " settled " by the council's offer contained in the letter of October, 1947, or were they settled when the mortgage deed was signed by the borrower, particularly in view of the fact that s. 92 (3) of the Housing Act, 1935, states that advances shall be deemed to be made on the date when the instrument securing the repayment of the advance is executed?

(*c*) Does the principle of estoppel prevent the borrower from raising the question of the rate of interest after he has signed the mortgage particularly as he did so with full knowledge from the council that the rate was 3½ *per cent.* EDWIN.

Answer.

(*a*) In our opinion, yes.
(*b*) When the deed was executed.
(*c*) We think so.

13. Water Act, 1945—*Water charges—Public houses, etc.—Domestic purposes.*

The borough council supplies water under the Public Health Act, 1936, as amended by the Water Act, 1945, and levies a water rate under s. 126 of the Public Health Act, 1936.

Licensed premises in respect of which a water rate is paid use water in connexion with the business of washing glasses, and (the point which concerns the council most particularly) for flushing sanitary conveniences. The council has sought to levy upon such premises, an additional charge for water so used, relying upon the following argument :

(i) The water rate payable under s. 126 of the Public Health Act, 1936, is solely for water used for domestic premises and cannot be claimed to cover the supply for non-domestic use.

(ii) Use of water on licensed premises for the purposes stated is not use for domestic purposes.

(iii) Therefore, an additional charge may be levied for such water under the provisions of s. 27 of the Water Act, 1945.

Similarly, the council has sought to make additional charges on, *e.g.*, hairdressers even where the business is carried on in the proprietors residence premises (usually house and shop combined).

To be equitable, it has been urged that these charges should not be made as in most cases the rateable value of the premises concerned reflect a higher value because of the business carried on than they would if the premises were used merely as residential. Where the rateable value is not sufficiently high to ensure a fair payment for water consumed, the council has been advised that the premises should be metered.

Your opinion on this question would be appreciated.

The council also makes a charge to builders who operate in the borough on the basis that during their normal business these traders use water supplied by the council to the premises at which the builders may be carrying out work. In all cases these charges have been resisted. The charge is usually a nominal one, say £1 1*s. per annum*, and does not cover major work like the erection of a house for which a separate charge is made. Your observations on this point would also be appreciated. A1CB.

Answer.

As regards the public house the council are wrong on all points : *see* cases collected in *Lumley's* note, p. 4191. We think the same principle applies to the hairdresser. We are not sure what the council have been doing to the builder : if, as seems from the query, they claim to charge him at his business premises a fee unrelated to the water used there, because he uses water elsewhere, the whole idea is hopelessly illegal.

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. (*contd.*)

NOTTINGHAMSHIRE

Appointment of Male Probation Officer

The Nottinghamshire Combined Probation Committee invite applications for the appointment of full-time Male Probation Officer at a salary in accordance with the Probation Rules, 1949, as amended.

Forms of application, with conditions of appointment, may be obtained from my office and completed forms must be received by me not later than September 10, 1951.

K. TWEEDALE MEABY,
Clerk of the Peace.

Shire Hall,
Nottingham.

COUNTY OF LANCASTER

Petty Sessional Division of Bolton

APPLICATIONS are invited for the appointment of :

(1) Chief Assistant to whole-time Clerk to Justices. Remuneration £645—£710.
(2) Male Assistant at a salary in accordance with the National Joint Council General Division Scale.

The appointments are superannuable and subject to medical examination.

Applications, giving age, education and experience, together with testimonials, must reach the undersigned not later than September 1, 1951.

EDWARD T. SCOTT,
Clerk to the Justices.

16, Silverwell Street,
Bolton.

METROPOLITAN BOROUGH OF ISLINGTON

Appointment of Assistant Solicitor

APPLICATIONS are invited from duly qualified solicitors for the permanent appointment of Assistant Solicitor in the Town Clerk's Office at a commencing salary of £735 per annum rising by annual increments of £25 to £810 per annum in grade A.P.T. VIII of the National Joint Council's scales of salary, plus London "Weighting" of £20 or £30 per annum according to age.

Applicants should have experience of conveyancing and advocacy. Previous local government experience will be an advantage.

The position will be subject to the National Joint Council Scheme of Conditions of Service and to the provisions of the Local Government Superannuation Act, 1937, and the successful applicant will be required to pass a medical examination.

Applications, stating age, particulars of present and previous appointments, qualifications and general experience, accompanied by the names of two referees, must be delivered to the undersigned by not later than August 31, 1951.

Canvassing, either directly or indirectly, will disqualify and candidates are requested to state whether to their knowledge, they are related to any member or senior officer of the Council.

The Council are unable to provide housing accommodation for the successful applicant.

H. DIXON CLARK,
Town Clerk.

Town Hall,
Upper Street,
N.1.

COUNTY OF BUCKINGHAM

Appointment of Whole-time Male Probation Officer

THE Buckinghamshire Probation Committee invite applications for the appointment of a male whole-time Probation Officer to serve in the Slough and Burnham Petty Sessional Divisions of the County.

The appointment and salary will be subject to the Probation Rules, 1949 and 1950. Applicants must be not less than 23 nor more than 40 years of age, except in the case of a serving whole-time Probation Officer. The selected candidate will be required to pass a medical examination. Applications, stating age, present position, qualifications and experience, together with the names of at least two referees, should reach the undersigned not later than September 22, 1951.

GUY R. CROUCH,
Clerk of the Peace for Bucks.

County Hall,
Aylesbury, Bucks.
August 24, 1951.

Amended Advertisement

BOROUGH OF FARNWORTH

Appointment of Town Clerk

APPLICATIONS are invited from Solicitors with wide experience in local government law and administration for the appointment of Town Clerk, at a salary of £1,000 per annum rising by three increments of £50 each to a maximum of £1,150. In the event of a determination upholding the salary scales contained in the recommendations of the Joint Negotiating Committee for Town Clerks the recommended scale for Farnworth will be substituted.

The successful candidate will be required to devote the whole of his time to the statutory and other duties of his office. He will be required, without additional remuneration, to carry out all the legal work of the corporation and to attend evening meetings of the council, committees and sub-committees. All fees and other emoluments, except personal fees arising from electoral registration or election duties, shall be paid by him into the rate fund.

The appointment will be subject to the Local Government Superannuation Act, 1937, and will be terminable by three months' notice in writing by either party. The successful candidate will be required to pass a medical examination satisfactorily, and to continue in membership of a recognized Trade Union.

Applications, on forms obtainable from the undersigned, must be received together with copies of three recent testimonials not later than Monday, September 10, 1951.

H. L. SAGAR,
Acting Town Clerk.

Town Hall,
Farnworth,
Lancs.
August 9, 1951.

COUNTY OF ESSEX

Petty Sessional Division of Beaconstree

Appointment of Court Assistant

APPLICATIONS are invited from competent shorthand-typists for the appointment of a male Court Assistant on the staff of the Clerk to the Justices at a salary in accordance with the Clerical Division of the National Joint Council's Scale. The commencing salary will be £445 rising by annual increments of £15 to £490 plus London Weighting Allowance (£20 age 21 to 25 years and £30 age 26 years and over). The appointment will be superannuable and subject to a medical examination.

Applications, stating age and experience, and the names of three persons to whom reference may be made, must reach the undersigned not later than September 1, 1951.

H. G. BARROW.
Clerk to the Justices.

The Court House,
Great Eastern Road,
Stratford, E.15.

COUNTY BOROUGH OF NEWPORT
(Population 107,000)

ASSISTANT SOLICITOR required. Salary A.P.T. Va (£600×£20 to £660) rising after two years' legal experience from date of admission to A.P.T. VII (£685×£25 to £760). The post is permanent and superannuable and is determinable by one month's written notice on either side. Experience in advocacy is desirable. Terms and conditions are as laid down by the N.J.C. for Local Authorities' Administrative, Professional, Technical and Clerical Services. The successful candidate will be required to pass a medical examination.

Applications, stating age, qualifications, experience, and whether related to any member or senior officer of the council should reach me by September, 1, 1951.

Canvassing will disqualify.

J. G. ILES,
Town Clerk.

Civic Centre,
Newport, Mon.
August 11, 1951.

CITY OF LIVERPOOL

Town Clerk's Department

APPLICATIONS are invited for the following appointments, *viz* :

1. Assistant Prosecuting Solicitor ; Salary—£1,250×£50—£1,500 per annum.
2. Assistant Solicitor, Grade A.P.T. X ; (£870—£1,000).
3. Assistant Solicitor, Grade, A.P.T. VIII ; (£735—£810).

Application forms, returnable by September 5, 1951, together with details of duties and conditions of the appointments, may be obtained from the undersigned.

The appointments are superannuable and subject to the Standing Orders of the City Council.

Canvassing disqualifies.

THOMAS ALKER,
Town Clerk.

Municipal Buildings,
Liverpool, 2.
August, 1951. (2679).

COUNTY BOROUGH OF DARLINGTON

Senior Assistant Solicitor

APPLICATIONS are invited for the appointment of Senior Assistant Solicitor at a salary in accordance with Grade A.P.T. IX of the National Joint Council's Scale of Salaries. Applicants must have a knowledge of Local Government Law and Administration and experience in conveyancing and advocacy.

The post of Deputy Town Clerk will be in abeyance on the retirement of the present holder in October. No council housing accommodation is available.

Applications, endorsed "Senior Assistant Solicitor" with names of two referees, must reach the undersigned by noon on Friday, August 31.

Canvassing is prohibited.

H. HOPKINS,
Town Clerk.

Town Clerk's Office,
Darlington.

URBAN DISTRICT COUNCIL OF FARNBOROUGH

Assistant Solicitor

APPLICATIONS are invited for the appointment of an Assistant Solicitor, at a salary within Grades V(a), VI or VII or the A.P.T. Division of the National Scales (£600—£760 per annum), according to the degree of experience of the successful candidate.

Applicants should have good conveyancing experience. Local Government experience is not essential but preference will be given to candidates having such experience.

The appointment will be subject to the provisions of the National Scheme of Conditions of Service and the Local Government Superannuation Act, 1937, and the successful candidate will be required to pass a medical examination.

Applications, endorsed "Assistant Solicitor," giving details of age, date of admission, particulars of experience, qualifications and the present position held, together with names and addresses of three referees, should be forwarded to the undersigned not later than Wednesday, August 29, 1951.

D. STUART JONES,
Clerk of the Council.

Town Hall,
Farnborough,
Hants.

COUNTY OF KENT

Appointment of Male Probation Officers

THE Kent Combined Probation Committee invites applications for the appointment of male whole-time Probation Officers to serve in the Kent Combined Probation Area.

The appointments will be subject to the Probation Rules, 1949 and 1950, and the salaries will be in accordance with the scale provided in the Rules. The appointments are superannuable.

Applicants must be qualified to deal with probation cases, matrimonial differences and other social work of the Courts.

The selected candidates will be required to pass medical examinations.

Applications, stating age, experience and educational qualifications, together with copies of not more than three recent testimonials, should be sent to the undersigned within fourteen days of the appearance of this advertisement.

W. L. PLATTS,
Clerk of the Peace.

County Hall, Maidstone.

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